

Expired and Expiring Authorizations of Appropriations for Fiscal Year 2022

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Summary

The Congressional Budget Office tracks authorizations of appropriations that have specified expiration dates and identifies, annually, appropriations that are provided for authorizations that have expired. For this report, CBO identified 1,118 authorizations of appropriations that expired before the beginning of fiscal year 2022 and 111 authorizations that are set to expire before the end of the fiscal year. CBO also found that \$461 billion in appropriations for 2022 was associated with 422 expired authorizations of appropriations.

Background

Some provisions of law authorize the Congress to provide funds through a future appropriation act to administer a program or function. Such *authorizations of appropriations*, which are the subject of this report, differ from other authorizations (sometimes called enabling or organic statutes) that create a federal agency, establish a federal program, prescribe a federal function, or provide for a particular federal obligation or expenditure within a program. *Appropriations* provide funding to agencies to administer programs and functions.

An authorization of appropriations constitutes guidance for future Congressional decisions about funding that may be necessary to implement an enabling statute; the authorization may be contained in that enabling statute or enacted separately. Such laws may authorize appropriations for one year, for multiple years, or in perpetuity. The amounts authorized may be definite (specifying the exact amount of funding that may be provided) or indefinite (authorizing "such sums as may be necessary," with no specified upper limit). In either case, CBO refers to those laws as *explicit* authorizations.

Section 202(e)(3) of the Congressional Budget Act of 1974 requires CBO to report annually to the Congress on the following:

- All programs and activities funded for the current fiscal year for which the authorizations of appropriations have expired, and
- All programs and activities for which the authorizations of appropriations expire during the current fiscal year.

The information summarized here is drawn from the agency's Legislative Classification System (LCS), the database of nonpermanent and explicit authorizations of appropriations that underlies the report. Later in this report, CBO describes the method it uses to determine which authorizations have expired or will expire and discusses uncertainty in the aggregated information.

House and Senate rules dating from the 19th century restrict lawmakers from considering an appropriation if it lacks a current authorization.² The determination of whether that is the case and whether an appropriation

- That database is available in the workbook posted as supplemental data at www.cbo.gov/publication/57760. The data supersede a preliminary version; see Congressional Budget Office, "Expired and Expiring Authorizations of Appropriations for Fiscal Year 2022—Information for Legislation Enacted Through September 30, 2021" (January 2022), www.cbo.gov/ publication/57739.
- See clause 2(a)(1) of rule XXI, "General Appropriation Bills and Amendments," of the Rules of the House of Representatives, H.R. Doc. 115-177 (2019), p. 871, https://tinyurl.com/53ethuav (PDF, 5 MB); and clause 1 of rule XVI, "Appropriations and Amendments to General Appropriations Bills," of the Standing Rules of the Senate, S. Doc. 113-18 (January 2013), p. 11, https://tinyurl.com/cttpbya8 (PDF, 362 KB).

violates a House or Senate rule is made by the Speaker of the House or the Presiding Officer of the Senate on the basis of advice from the relevant chamber's Office of the Parliamentarian. Although this report is intended to aid the Congress by identifying explicit authorizations of appropriations that expired before, or will expire during, this fiscal year, it is not and should not be considered definitive with respect to the application of House or Senate rules.³

For this report, funding for expired authorizations includes only those appropriations that could be associated with the authorization in legislative text or legislative history; additional amounts of funding may be available for activities or programs with expired authorizations of appropriations.

Authorizations and Appropriations Identified for This Report

The last piece of legislation that CBO analyzed to determine authorizations for this report was Public Law 117-103, the Consolidated Appropriations Act, 2022, enacted on March 15, 2022. As of that date, CBO had identified 1,118 authorizations of appropriations that expired before the beginning of fiscal year 2022 and 111 authorizations of appropriations that were set to expire by the end of fiscal year 2022. CBO estimates that \$461 billion in funding was appropriated for 2022 for activities with expired authorizations (see Table 1 and see Table 2).

• According to CBO's analysis, roughly 44 percent of expired authorizations identified for this report expired at least a decade ago; the oldest expired in 1980. More than 70 percent of such authorizations are for specified amounts of annual funding that, when combined, totaled \$93 billion for the year when they were last in effect. The remainder authorized indefinite appropriations of amounts to administer certain programs or functions.

- 3. CBO consults with Congressional committees when preparing this report, as required by law.
- It is possible that some of the expired and expiring authorizations identified for this report were reauthorized by legislation enacted after March 15, 2022.
- Appropriations identified for this report stem from divisions A through L of P.L. 117-103 and multiple laws that provided supplemental appropriations for 2022. The last appropriation act that CBO reviewed for this report was division C of P.L. 117-167, the Supreme Court Security Funding Act of 2022.

- The \$461 billion in funding for fiscal year 2022 for which authorizations have expired can be attributed to 422 expired authorizations contained in 163 laws. Of that total, \$353 billion is associated with specified authorizations and \$107 billion with indefinite authorizations. More than half (\$268 billion) of that \$461 billion was provided for authorizations that expired more than a decade ago.
- CBO cannot identify appropriations for fiscal year 2022 for 696 expired authorizations—that is, clear connections cannot be made between the language of those authorizations and the statutory text and corresponding legislative history of appropriation legislation for 2022.6
- Overall, CBO identified an increase of \$26 billion (or 6 percent) in funding for expired authorizations this year; that funding rose from \$435 billion in 2021 to \$461 billion in 2022.⁷
- Funding for expired authorizations is mostly attributable to a small group of expired authorizations: Twenty-one laws were identified as major sources of expired authorizations for which appropriations were provided in 2021 or 2022 (see Table 3).8 All those laws received appropriations in both years. In 2022, those 21 laws accounted for \$414 billion of the \$461 billion in total funding for expired authorizations that CBO identified, and 142 laws accounted for the remainder. The largest such appropriation is for veterans' medical care.
- Specified authorizations of appropriations set to expire during 2022 total \$807 billion this year (see Table 4 on page 6). Most of that amount is authorized for defense activities, which, historically, are reauthorized annually.

- 7. The 2021 total differs from the figure in last year's report (\$432 billion) because it includes updates to account for appropriations provided in supplemental appropriation acts enacted after the release of that report and to correct database errors that CBO identified while preparing this edition of the report.
- For this edition of the report, major sources of appropriations for expired authorizations include laws with more than \$3 billion in identified appropriations in 2021 or 2022.

Regardless of whether CBO can identify appropriations for this report, a federal agency may be able to determine that funding for 2022 is available for purposes covered by an expired authorization.

Table 1.

Summary of 2022 Appropriations With Expired Authorizations, by House and Senate Authorizing Committee

	Expired Authorizations of Appropriations		Expired Authorizations of Appropriations With Identifiable Appropriations	
	Number of Laws ^a	Number of Authorizations ^b	Number of Authorizations	Amount of Appropriation (Millions of dollars)
House Authorizing Committee				
Agriculture	6	7	2	311
Armed Services	2	2	n.a.	n.a.
Education and Labor	22	151	103	87,929
Energy and Commerce	53	277	71	63,354
Financial Services	24	48	23	46,862
Foreign Affairs	34	107	46	44,554
Homeland Security	7	18	5	773
House Administration	3	4	3	103
Judiciary	41	132	57	44,541
Natural Resources	65	163	46	9,893
Oversight and Reform	9	15	5	115
Permanent Select Committee on Intelligence	1	3	n.a.	n.a.
Science, Space, and Technology	17	64	24	51,526
Small Business	4	9	6	1,825
Transportation and Infrastructure	35	86	20	6,616
Veterans' Affairs	14	20	3	100,917
Ways and Means	7	12	8	1,242
Senate Authorizing Committee				
Agriculture, Nutrition, and Forestry	8	20	5	356
Armed Services	2	7	n.a.	n.a.
Banking, Housing, and Urban Affairs	21	42	19	45,780
Commerce, Science, and Transportation	46	150	57	47,757
Energy and Natural Resources	29	180	21	25,721
Environment and Public Works	39	85	25	3,316
Finance	7	12	8	1,242
Foreign Relations	32	105	46	44,554
Health, Education, Labor, and Pensions	44	266	145	140,601
Homeland Security and Governmental Affairs	21	43	17	2,690
Indian Affairs	14	39	11	1,091
Judiciary	42	131	56	44,607
Permanent Select Committee on Intelligence	1	3	n.a.	n.a.
Rules and Administration	3	4	3	103
Small Business and Entrepreneurship	5	11	6	1,825
Veterans' Affairs	14	20	3	100,917
Total	284	1,118	422	460,560

Data source: Congressional Budget Office. See www.cbo.gov/publication/57760#data.

This table shows only the committees that have jurisdiction over expired authorizations of appropriations in CBO's Legislative Classification System; therefore, not all committees are included.

n.a. = not applicable.

- a. Includes laws containing expired authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations that are under the jurisdiction of more than one committee are counted only once.
- b. Number of explicit authorizations of appropriations within the jurisdiction of each committee that expire on or before September 30, 2022.
- c. Identifiable amounts specified in statute, a conference report, or other legislative history.

Table 2.

Summary of 2022 Appropriations With Expired Authorizations, by Appropriations Subcommittee

	Expired Authorizations of Appropriations		Expired Authorizations of Appropriations With Identifiable Appropriations ^c	
Appropriations Subcommittee	Number of Laws ^a	Number of Authorizations ^b	Number of Authorizations	Amount of Appropriation (Millions of dollars)
Agriculture, Rural Development, FDA, and Related Agencies	10	22	4	353
Commerce, Justice, Science, and Related Agencies	72	222	103	77,868
Defense	2	2	n.a.	n.a.
Energy and Water Development and Related Agencies	21	158	10	15,439
Financial Services and General Government	29	45	19	5,424
Homeland Security	24	56	20	7,417
Interior, Environment, and Related Agencies	66	138	40	9,685
Labor, HHS, Education, and Related Agencies	55	275	156	154,745
Legislative Branch	1	1	n.a.	n.a.
Military Construction, Veterans Affairs, and Related Agencies	14	20	3	100,917
State, Foreign Operations, and Related Programs	36	106	45	44,536
Transportation, HUD, and Related Agencies	32	73	22	44,176
Total	284	1,118	422	460,560

Data source: Congressional Budget Office. See www.cbo.gov/publication/57760#data.

Amounts reflect information related to explicit authorizations of appropriations, for definite or indefinite amounts, that expired on or before September 30, 2021. FDA = Food and Drug Administration; HHS = Health and Human Services; HUD = Housing and Urban Development; n.a. = not applicable.

- a. Includes laws containing expired authorizations of appropriations for definite or indefinite amounts. The total is less than the sum of the entries because public laws containing authorizations of appropriations that are under the jurisdiction of more than one subcommittee are counted only once.
- b. Number of explicit authorizations of appropriations within the jurisdiction of each subcommittee that expire on or before September 30, 2022.
- c. Identifiable amounts specified in statute, a conference report, or other legislative history.

The supplemental data file posted along with this report provides detailed information about the status of individual explicit authorizations of appropriations.

How CBO Determines Expired and Expiring Authorizations of Appropriations

The process of assembling information on expired and expiring authorizations of appropriations occurs in three phases. First, CBO's analysts review newly enacted laws to identify provisions that establish or modify explicit, time-limited authorizations of appropriations. Second, they catalog information about those authorizations in the agency's LCS database. Third, they review appropriations enacted for the current fiscal year to assess whether those acts provide funding for expired authorizations.⁹

The process of associating authorizations and appropriations is imprecise, involving analysts' judgment, and the resulting statistics in this report are uncertain.

Phase 1: Review Authorizations

CBO's analysts review the text of newly enacted legislation to identify provisions that create new authorizations of appropriations or that amend, extend, or repeal existing ones. To be included, each authorization must meet three criteria:

• It Authorizes an Appropriation Explicitly. Many federal activities are governed by an enabling authorization (such as an organic statute that outlines an agency's mission and authorities) and by an explicit authorization of appropriation; others might not have an authorization of appropriation. This report considers explicit authorizations only. A key determinant for inclusion is the text of the law, which often includes the words "authorization of appropriation."

^{9.} As it does for other legislation, CBO reviews appropriation acts for explicit authorizations of appropriations and updates the LCS accordingly. CBO's catalog of authorizations as compiled from the LCS is published with each edition of the report. See Congressional Budget Office, "Expired and Expiring Authorizations of Appropriations," https://tinyurl.com/yc8pnkfu.

Table 3.

Public Laws That Are Major Sources of Expired Authorizations of Appropriations With Identifiable Appropriations in 2021 and 2022

		2021°		2022	
Public Law Title	Number of Authorizations	Amount of Appropriation (Millions of dollars)	Number of Authorizations	Amount of Appropriation (Millions of dollars)	
104-262	Veterans' Health Care Eligibility Reform Act of 1996	1	90,780	1	100,184
114-255	21st Century Cures Act	1	41,437	2	44,999
109-162	Violence Against Women and Department of Justice Reauthorization Act of 2005	22	32,506	22	33,087
105-276	Quality Housing and Work Responsibility Act of 1998	2	30,886	2	32,547
114-95	Every Student Succeeds Act	26	26,440	26	27,765
115-10	National Aeronautics and Space Administration Transition Authorization Act of 2017	9	23,271	9	24,363
107-228	Foreign Relations Authorization Act, Fiscal Year 2003	26	26,590	25	23,024
111-152	Health Care and Education Reconciliation Act of 2010	1	22,475	1	22,475
111-358	America COMPETES Reauthorization Act of 2010	5	16,547	5	17,590
099-83	International Security and Development Cooperation Act of 1985	6	6,864	3	15,268
109-58	Energy Policy Act of 2005	6	6,215	6	15,254
110-134	Improving Head Start for School Readiness Act of 2007	1	10,748	1	11,037
106-104	Amendments to the Immigration and Nationality Act, 1999	1	1,918	1	8,907
113-128	Workforce Innovation and Opportunity Act	15	8,761	15	8,857
110-315	Higher Education Opportunity Act	30	6,840	31	7,455
113-186	Child Care and Development Block Grant Act of 2014	1	15,911	1	6,165
102-550	Housing and Community Development Act of 1992	6	5,766	6	5,846
102-567	National Oceanic and Atmospheric Administration Authorization Act of 1992	9	2,939	11	5,280
111-22	Helping Families Save Their Homes Act of 2009	1	3,000	1	3,213
110-53	Implementing Recommendations of the 9/11 Commission Act of 2007	6	4,423	5	812
115-282	Frank LoBiondo Coast Guard Authorization Act of 2018	8	11,302	1	150
Subto	tal	183	395,620	175	414,278
	tal (Percent)	45	91	16	90
All Other I	_aws With Identifiable Appropriations	228	39,181	247	46,282
Tota	I	411	434,801	422	460,560

Data source: Congressional Budget Office. See www.cbo.gov/publication/57760#data.

Public laws that are listed are the major statutory sources of expired authorizations of appropriations for which CBO was able to identify appropriations in 2021 and 2022. Major sources are laws with more than \$3 billion in identified appropriations for expired authorizations in either 2021 or 2022.

- a. Includes updates to the data presented in CBO's 2021 report to account for appropriations provided in supplemental appropriation acts enacted after the release of that report and to correct database errors that CBO identified while preparing this edition of the report.
- It Would Receive Funding in an Appropriation Act.
 This report focuses on authorizations for funding that CBO expects would be provided in legislation under the jurisdiction of the House or Senate Committee on Appropriations.
- It Has a Specified Expiration Date. Authorizations of appropriations do not fit within the scope of this

report if they are permanent or lack an end date.¹⁰ Because the report excludes explicit authorizations that do not expire, it cannot be considered an exhaustive list of enacted authorizations of appropriations.

^{10.} If an authorization does not specify a particular expiration date but includes the entire fiscal year, then CBO lists September 30 the last day of the fiscal year—as the expiration date.

Table 4.

Summary of Authorizations of Appropriations Expiring on or Before September 30, 2022, by House and Senate Authorizing Committee and Appropriations Subcommittee

	All Expiring Authorizations of Appropriations		Expiring Authorizations With Definite Amount Authorized in 2022	
-	Number of Laws ^a	Number of Authorizations ^b	Number of Authorizations	Authorized Amount (Millions of dollars) ^c
House Authorizing Committee				
Armed Services	2	4	4	739,657
Energy and Commerce	7	56	49	36,636
Foreign Affairs	4	9	8	2,004
Homeland Security	1	4	4	96
House Administration	1	1	0	*
Judiciary	4	7	7	466
Natural Resources	3	12	12	16,207
Permanent Select Committee on Intelligence	1	5	2	1,101
Transportation and Infrastructure	3	5	5	10,836
Veterans' Affairs	2	8	8	90
Senate Authorizing Committee				
Armed Services	2	7	7	768,887
Commerce, Science, and Transportation	3	3	3	8,525
Energy and Natural Resources	1	23	23	21,097
Environment and Public Works	1	1	1	2
Foreign Relations	4	9	8	2,004
Health, Education, Labor, and Pensions	5	41	34	3,870
Homeland Security and Governmental Affairs	2	6	6	1,050
Judiciary	4	7	7	466
Rules and Administration	1	1	0	*
Select Committee on Intelligence	1	5	2	1,101
Veterans' Affairs	2	8	8	90
Appropriations Subcommittee				
Agriculture, Rural Development, FDA, and Related Agencies	1	4	0	*
Commerce, Justice, Science, and Related Agencies	6	9	8	481
Defense	2	4	3	727,311
Energy and Water Development and Related Agencies	2	15	15	32,766
Homeland Security	3	7	7	9,446
Interior, Environment, and Related Agencies	2	11	11	16,192
Labor, HHS, Education, and Related Agencies	5	38	35	3,920
Legislative Branch	1	1	0	*
Military Construction, Veterans Affairs, and Related Agencies	3	9	9	13,462
State, Foreign Operations, and Related Programs	6	11	9	2,029
Transportation, HUD, and Related Agencies	2	2	2	1,486
Total	n.a.	111	99	807,095

Data source: Congressional Budget Office. See www.cbo.gov/publication/57760#data.

This table shows only the committees that have jurisdiction over authorizations of appropriations expiring in 2022; therefore, not all authorizing committees are included.

FDA = Food and Drug Administration; HHS = Health and Human Services; HUD = Department of Housing and Urban Development; n.a. = not applicable;

^{* =} between zero and \$500,000.

a. Includes laws with expiring authorizations of appropriations for definite or indefinite amounts. Public laws containing authorizations of appropriations that are under the jurisdiction of more than one committee or subcommittee are counted only once.

b. Number of explicit authorizations of appropriations within the jurisdiction of each committee or subcommittee that expire on or before September 30, 2022.

c. Amounts specified in statute or legislative history; excludes authorizations of appropriations that do not specify an amount.

Phase 2: Catalog Authorizations

During this phase of the process, analysts update the LCS, recording new authorizations as well as repeals, modifications, and extensions. The LCS contains information about each authorization: the committees of jurisdiction, references to a public law or section of the U.S. Code that contains the authorization, the expiration date, and the amount authorized to be appropriated in the authorization's final year. If the authorized amount is indefinite, the LCS shows a zero.

To ensure the reliability of data cataloged during the second phase, CBO is required by law to consult with key staff of Congressional committees. CBO shares a preliminary version of the data for the upcoming report and asks staff members to review items within each committee's jurisdiction. That process helps CBO identify and correct errors in the LCS, particularly errors related to committee jurisdiction and the status of authorizations.

The goal for this phase is to ensure that the data related to authorizations are entered into the LCS in a way that helps analysts identify subsequent appropriations for those authorizations in future years if they expire. In some cases, authorizations are combined to make it easier for analysts to identify appropriations for a given program or activity. For example, large authorization bills such as the annual National Defense Authorization Act and the biennial Water Resources Development Act—can contain hundreds of discrete authorizations of appropriations for a broad range of activities of a federal department or agency. CBO consolidates many of those authorizations within the LCS to be consistent with the way related appropriations typically are provided. As a result, the number of expired or expiring authorizations in the LCS can be smaller than the actual number of discrete authorizations contained in those laws.

By contrast, if there is ambiguity about whether two authorizations of appropriations may interact or overlap, both are included in the LCS. That way, each explicit authorization is cataloged as closely as possible to the way it appears in the law. However, that treatment may double count some amounts authorized to be appropriated. For example, if an explicit authorization of appropriations for a series of grant programs is in place and a new law establishes an explicit authorization for a specific type of grant, analysts may not be able to determine whether the new authorization is meant to be additional to or derived from the existing authorization. In that

case, CBO catalogs both the new authorization and the existing one in the LCS, potentially causing the authorization to be counted twice.

Phase 3: Identify Appropriations for Expired Authorizations

Once the 12 annual appropriation acts for the fiscal year covered by the report are enacted, CBO begins the third phase of the process. Analysts start by assessing the list of authorizations that are expired as of that time. Then, they review appropriation legislation that provides funding for the current fiscal year. Specifically, the 12 annual appropriation acts are reviewed, as are any supplemental appropriations enacted for the year and any permanent or advance appropriations already in place. 11 Analysts also consult detailed tables provided by the House and Senate Committees on Appropriations and the Joint Explanatory Statement of Conferees. (The joint explanatory statement explains the various elements of the conferees' agreement in relation to the positions that the House and Senate had committed to the conference committee.)

The goal for this phase is to connect appropriations with expired authorizations on the basis of the appropriation acts' text and the corresponding legislative history. CBO's ability to make such connections is limited by the amount of detail provided in those laws and in related materials. Without a clear link, CBO is not always able to associate an expired authorization with an appropriation—even if a federal agency could determine subsequently that appropriations are available for purposes covered by an expired authorization. In such cases, CBO might not identify those amounts in the LCS if the language of the authorization and the appropriation do not align. If authorizations overlap or interact, CBO tries to identify an appropriation for each authorization.

CBO's goal is to ensure consistency in the LCS's records of appropriations for expired authorizations. When more than one appropriation is identified for a single expired authorization, the amounts are consolidated and attributed to that authorization for that year. If an appropriation can be associated with more than one

^{11.} When a supplemental appropriation is enacted after CBO publishes the report for a fiscal year, CBO updates the LCS to reflect changes to funding for expired authorizations. CBO does not revise the report, but it provides details in the next report on the amount of supplemental appropriations that were identified and associated with authorizations that had expired when the previous report was published.

authorization in the LCS, CBO associates that appropriation with just one authorization—usually, the one most recently in effect.

Uncertainty of the Reported Statistics

Cataloging authorizations and identifying appropriations involves analysts' judgment. For that reason, the report's statistics are subject to uncertainty. Under- or overstating the number of authorizations can result in underestimating or double counting both the number of expired authorizations with identified funding and the dollar amounts of appropriations provided for expired authorizations. Thus, this report should not be construed as providing precise information about the current state of explicit authorizations and related appropriations. That uncertainty in the cataloging of authorizations and appropriations affects the accuracy of comparisons between data sets from year to year. Comparisons of data between one report and another indicate broad overall trends, not precise differences.

This report by the Congressional Budget Office satisfies the requirements of section 202(e)(3) of the Congressional Budget Act of 1974, as amended. The report is intended to assist the Congress by identifying authorizations of appropriations that expired before, or will expire during, the current fiscal year. Previous editions, which until 2016 were titled *Unauthorized Appropriations and Expiring Authorizations*, are available from CBO's web page for major recurring reports, "Expired and Expiring Authorizations of Appropriations," at https://tinyurl.com/yc8pnkfu.

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Mark Hadley, Jeffrey Kling, and Robert Sunshine reviewed the report. Christine Bogusz edited it, and Casey Labrack prepared the report for publication. The report is available at www.cbo.gov/publication/57760.

CBO seeks feedback to make its work as useful as possible. Please send comments to communications@cbo.gov.

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